

LIBELED: 2-3-54, N. Dist. Ga.; libel amended 3-16-54.

CHARGE: 502 (f) (1)—the labeling of the article when shipped failed to bear adequate directions for use; and 503 (b) (4)—the article was not a drug subject to 503 (b) (1), and prior to dispensing, its label bore the statement "Caution: Federal law prohibits dispensing without prescription."

DISPOSITION: Crews Drug Co., Inc., Atlanta, Ga., claimant, filed an answer denying that the article was misbranded as alleged and claiming that the article was exempt from the requirements of 502 (f) (1) under the provisions of 503 (b) (2) since it was to be dispensed only upon the prescription of a physician. Thereafter, on 3-16-54, the Government filed a motion to strike that portion of the claimant's answer claiming an exemption for the article, and in support of such motion, it claimed that the defense relied upon was insufficient in law. A motion was filed also to amend the libel to include the charge of misbranding within the meaning of 503 (b) (4). The motion to amend the libel was granted on 3-16-54.

The claimant filed a motion to amend its answer to include the claim that the article was also exempt from the labeling requirements of the Act by reason of the provisions of 503 (b) (1) (B). The motion was granted on 4-20-54. On 9-20-54, the Government's motion to strike was granted, there being no objection on the part of the claimant.

Subsequently, interrogatories were served upon the claimant by the Government and were answered. On 12-7-55, the court, upon motion of the Government and with the consent of the claimant, entered a decree condemning the article and ordering its destruction.

4786. Apiol and ergotin compound. (F. D. C. No. 38176. S. No. 21-585 M.)

QUANTITY: 17 pkgs., 24 24-capsule boxes each, at Philadelphia, Pa.

SHIPPED: 4-1-54, from Brooklyn, N. Y., by Jamco Co.

LABEL IN PART: (Box) "Penhurst Apiol and Ergotin Compound 24 * * *
Each capsule contains: Apiol 5 Min. Oil Pennyroyal 1/2 Min. Ergotin 4 Gr.
Aloin 1/8 Gr. Vegetable Oil O. S. 10 Min."

LIBELED: 6-2-55, E. Dist. Pa.

CHARGE: 503 (b) (4)—the article was a drug subject to 503 (b) (1), and when shipped its label failed to bear the statement "Caution: Federal law prohibits dispensing without prescription."

DISPOSITION: 8-3-55. Default—destruction.

DRUGS ACTIONABLE BECAUSE OF FAILURE TO BEAR ADEQUATE DIRECTIONS OR WARNING STATEMENTS*

4787. Quinine hydrochloride. (F. D. C. No. 33786. S. No. 49-431 L.)

INDICTMENT RETURNED: 12-20-54, S. Dist. N. Y., against Sidney J. Cohen, New York, N. Y.

ALLEGED VIOLATION: The indictment alleged that, on or about 8-25-52, while a quantity of *quinine hydrochloride* was being held for sale, the defendant mutilated, destroyed, and removed a portion of the labeling displayed upon the drum containing the article, which acts resulted in the article being misbranded.

CHARGE: 502 (b) (1)—the article failed to bear a label containing the name and place of business of the manufacturer, packer, or distributor; 502 (e) (1)—the article failed to bear a label containing the common or usual name of the

*See also No. 4785.